

**GRANT AGREEMENT BETWEEN THE
CALIFORNIA STATE LIBRARY AND THE CITY OF NATIONAL CITY**

GRANT AWARD NO: 1028

SECTION 1. THE PARTIES

The parties of this Grant Award Agreement are the California State Library (State), the grantor, and the City of National City, the grantee.

SECTION 2. THE GRANT

As authorized by the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000, with the approval of the California Public Library Construction and Renovation Board, the State hereby grants the City of National City (Grantee), the sum of \$11,112,814 for the purpose of constructing the public library described in Grantee's Public Library Project Application Proposal No. 1028, which proposal is hereby incorporated by reference into this Agreement.

SECTION 3. TERMS OF AGREEMENT

- A. This agreement is effective upon its execution by both parties and expires on October 31, 2005.
- B. Prior to the expiration of the term of this Agreement, State may extend the term of this Agreement, by written amendment hereto, if State, in its sole discretion, determines such extension is necessary.

SECTION 4. GRANT AWARD CONDITION

- A. In all aspects of administration, implementation, and construction of its public library project, Grantee shall conform to the requirements of the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 (Act), the regulations implementing the Act, and shall expend grant funds in accordance with the Act and applicable regulations.

- B. Grantee shall construct the library proposed in its Public Library Project Application Proposal No. 1028.

SECTION 5. GRANT PAYMENTS

- A. Grantee shall submit to the State required financial and program performance reports satisfactory to the State detailing Grantee's expenditure of Grant funds.
- B. Grant payments shall be payable on a reimbursement basis.
- C. Payments shall be made no more frequently than on a monthly basis. Payment requests shall be made only for eligible project costs. Payment requests shall be submitted on a form prescribed by the State Librarian, and sent to:

Bond Act Fiscal Officer
California State Library
1029 J Street, Suite 400
Sacramento, CA 95814
916-445-9592

- D. In the event that the funding provided is greater than the cost of Project, Grantee shall return the portion of funding which exceeds the cost of the Project to the State.

SECTION 6. PAYMENT RETENTION

State shall withhold 10% from each payment request, which shall be paid to the Grantee when all of the following have been completed:

- A. All eligible project costs have been expended; and all required financial and performance reports concerning the Project have been submitted.
- B. Grantee certifies, by providing a compliance letter from the local building official, that the building has been completed in accordance with the approved plans and specifications, including installation of book stacks.
- C. Grantee shows evidence that the building title has been accepted by Grantee; and,
- D. All ineligible cost issues, identified under interim or final audits performed by The California Department of Finance (DOF), have been resolved.

SECTION 7. SUSPENSION OR TERMINATION OF PAYMENT

State may at any time during the term of this Agreement, suspend or terminate payment to Grantee, in whole or in part, in the event of any of the following occurrences:

- A. If Grantee has made or makes any material misrepresentation with respect to information or statements furnished to the State required by this Agreement.
- B. If there is any litigation with respect to the performance by Grantee of any of its obligations under this Agreement, which may materially jeopardize or adversely affect the undertaking of, or carrying out of, the purposes of this Agreement.
- C. If Grantee fails to comply with any of the terms of this Agreement.
- D. If Grantee applies for, or consents to, or acquiesces in the appointment of a receiver, trustee, liquidator or custodian for all or part of its property; or if Grantee files a voluntary petition in bankruptcy or petition or an answer seeking liquidation or reorganization under the United States Bankruptcy Code or any other law related to bankruptcy or insolvency or relief of debtors.

SECTION 8. STATE'S RIGHT TO AUDIT

- A. Grantee shall maintain, by generally accepted accounting principles applicable for local government, a complete record of all financial transactions related to this Agreement. The accounting standards used shall be those promulgated by the Government Accounting Standards Board and the Financial Accounting Standards Board in effect during the term of this Agreement.
- B. In determining whether Grant funds are expended for intended purposes as prescribed under this Agreement, the entire Project, including the progress of the Project and Grant fund expenditures, are subject to audit and examination by the California Department of Finance (DOF) during the Project and for a period of five years after the final payment has been made, or for such longer period, if any, as is required by DOF.
- C. Grantee agrees that the California State Library and DOF auditors or representatives, upon reasonable advance notice to Grantee, shall have access and the right to audit, examine, and make excerpts or transcripts of or from records. Records include contracts, subcontracts, invoices, receipts, payrolls and personnel information, conditions of employment, documents of change orders, budget change requests, indirect costs allocation plan, and all other data or financial records relating to matters covered under this Agreement.

- D. Grantee further agrees that such right of State to examine or audit shall continue for five (5) years after the expiration or termination of this Agreement, or for such longer period, if any, as is required by applicable law. Grantee shall preserve and make available its records (i) until the expiration of five (5) years from the date of expiration or sooner termination of this Agreement, or (ii) for such longer period, if any, as is required by DOF.

SECTION 9. INELIGIBLE COSTS, OFFSET AND RESTITUTION

- A. Ineligible costs may be identified through audits, Grantee monitoring or other sources of information that become available to State.
- B. Ineligible costs shall also include expended costs concluded to be ineligible during The California Department of Finance's interim or final audits of grant fund expenditures. Further, the ineligible costs may be applied to offset subsequent payments to Grantee required under this Agreement. In the event that ineligible costs exceed subsequent payments, Grantee shall repay the excess to State within ninety (90) days unless otherwise extended by the State.
- C. Without limiting any other contractual remedies available to State for breach of this Agreement, Grantee agrees to make restitution to State for any cost incurred by Grantee and paid with bond funds that are not allowable under applicable State statutes, rules, regulations, policies and procedures, or the terms of this Agreement.

SECTION 10. FUNDING CONTINGENCY

Funding of this agreement is contingent upon availability of funding through the sale of General Obligation Bonds and/or General Fund loans requested by State. In addition, this Agreement is subject to any law or additional restrictions, limitations, or conditions enacted by the Legislature that may affect the provisions, terms or funding of this Agreement in any manner. This contingency will remain in effect during the entire term of the Agreement, including any extension to the term agreed upon by State and Grantee.

SECTION 11. RESOLUTION OF DISPUTES

If Grantee and State cannot agree on disposition of State Building Code (California Code of Regulations, Part 1, Title 24) matters during any reviews by State, State and Grantee may submit such matters to The Division of State Architect (DSA), California Department of General

Services, for determination. Both State and Grantee should accept the DSA determination as final disposition of such matters.

SECTION 12. COMPLIANCE WITH LAWS

Grantee shall comply with all applicable laws, ordinances, codes and regulations of federal, state, and local governments in carrying out its obligations under this agreement.

SECTION 13. WAIVER

Grantee agrees that waiver by the State of any breach or violation of the terms or conditions of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition.

SECTION 14. SEVERABILITY

If any term, covenant, condition or provision of this Agreement, or the Application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the Application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 15. PRIOR AGREEMENTS AND AMENDMENTS

This Agreement, including all Exhibits attached hereto, represents the entire Agreement of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by a written amendment duly executed by the parties to this Agreement.

SECTION 16. MISCELLANEOUS PROVISIONS

- A. The headings of the sections and subsections of this Agreement are inserted for convenience only. They do not constitute a part of this Agreement and shall not be used in its construction.

- B. Where this Agreement refers to State and no officer of the State is named, the State Librarian or his or her designee(s) shall have the authority to act on State's behalf.

SECTION 17. AUTHORITY AND STATUS OF GRANTEE

- A. Grantee represents and warrants that the individual who executes this Agreement is duly authorized to do so by Grantee.
- B. Grantee warrants that it will possess all the necessary licenses and/or permits required by any governmental agency in order to carry out the purpose contemplated herein.

APPROVED AS TO FORM


**CALIFORNIA STATE LIBRARY
STATE LIBRARIAN OF CALIFORNIA**


DR. KEVIN STARR

4/10/03
DATE

GRANTEE

City of National City
AGENCY


AUTHORIZED SIGNATURE

March 18, 2003
DATE

Nick Inzunza, Mayor
PRINTED NAME AND TITLE OF PERSON SIGNING